



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Wilneyda Luna,
Principal Account Clerk (M0380U),
Jersey City

List Removal Appeal

CSC Docket No. 2020-2315

ISSUED: MAY 22, 2020 (SLK)

Wilneyda Luna, represented by Francisco S. Guzman, Esq., appeals the removal of her name from the Principal Account Clerk (M0380U), Jersey City, eligible list for failure to respond to the certification notice.

The appellant’s name was certified to the appointing authority on August 30, 2019 on certification OL191045. The appellant was sent notice of the subject certification on or around September 9, 2019. However, the appellant’s name was removed from the list for failing to respond to the certification. The list expired on November 9, 2019.

On appeal, the appellant submits a notarized sworn statement indicating that she never received the subject certification notice.

Although given the opportunity, the appointing authority did not respond.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible’s name may be removed from a list for “non-compliance with the instructions listed on the notice of certification.” *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority’s decision to remove the appellant’s name from an eligible list was in error.

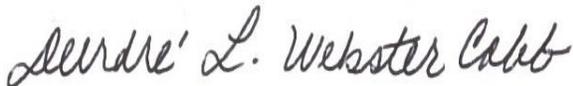
In the instant matter, the appellant submitted a notarized statement, attesting to the fact that she did not receive the Notice of Certification in question. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting her notarized statement in this matter. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 N.J.614 (1996); *Szczesny v. Vasquez*, 71 N.J. Super. 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Therefore, the Civil Service Commission finds that the appellant's name shall be restored to the subject eligible list. As this list expired on November 9, 2019, the list shall be revived at the time of the next certification to allow the appellant to be considered for prospective appointment.

ORDER

Therefore, it is ordered that this appeal be granted, Wilneyda Luna's name be restored to the Principal Account Clerk (M0380U), Jersey City promotional eligible list, and the list be revived at the time of the next certification to allow the appellant to be considered for prospective appointment.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON THE
20TH DAY OF MAY, 2020



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

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